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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/769,901

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Thomas M. Eubanks

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CONCERT TECHNOLOGY AND WITHROW & TERRANOVA  
100 REGENCY FOREST DRIVE , SUITE 160  
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EXAMINER

GELIN, JEAN ALLAND

ART UNIT

PAPER NUMBER

2617

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DELIVERY MODE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/769,901	<b>Applicant(s)</b> EUBANKS, THOMAS M.	
	<b>Examiner</b> JEAN A. GELIN	<b>Art Unit</b> 2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 05 February 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 26-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 26-35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. This is in response to the Applicant's arguments and amendments filed on February 05, 2008 in which claims 26, 32, and 34 have been amended. Claims 26-35 are currently pending.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 26 and 28 are rejected under 35 U.S.C. 102(e) as being anticipated by Ravi et al. (US 6,240,280).

Regarding claim 26, Ravi teaches a system (fig. 1), comprising: a CD player that produces an audio signal ((i.e., disk player 18), it is also true that a CD player can be used by service provider to broadcast audio signal); a memory unit for storing one or more templates (i.e., user has stored in the memory program type codes (templates), col. 3, lines 26-53); and a recognition processor, coupled to said CD player, which can be located at the service provider and used by the provider for transmission audio signal, and to said memory unit, for receiving said audio signal (i.e., signals from the provider are picked up by antenna 12 of the radio receiver in col. 2, lines 35-49 for the

microcontroller to detect and monitor incoming information such traffic announcement, weather or news), generating templates from said audio signal (i.e., a flag (corresponding to template) is generated in the audio signal as an announcer), and matching said generated templates to said one or more templates stored in said memory unit (col. 2, line 53 to col. 3, line 53).

Regarding claim 28, Ravi teaches wherein a template is a digital representation of a sample of an audio signal (col. 2, line 53 to col. 3, line 53).

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Van Ryzin (US 6,011,854) in view of Ravi further in view of Scott et al. (US 4,383,135).

Regarding claim 29, Van Ryzin teaches a system, comprising: at least one control panel (i.e., for entering keyword into the system, col. 4, lines 1-5); means for producing an audio signal (fig. 1, CD, Tape, or radio), it is also true that a CD player can be used by service provider to broadcast audio signal); a speaker system, coupled to said audio signal producing means, for emitting sound associated with said audio signal (fig. 1, speaker 24); means for determining whether a user of the system has activated a predetermined push button or buttons provided on said at least one control panel (col.

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3, line 66 to col. 4, line 30); and adding means for adding said template to at least one of two or more sets of templates (i.e., keywords can be entered via a push button or speech recognition unit, and information or words (corresponding to template) entered by the user are added to the memory of the radio receiver, user can enter "traffic" as a template in the memory, he can add "weather" a template in the memory, then he can add sports or any king word associated news, song and so on), wherein said adding means adds said template to said at least one of said two or more sets of templates if said determining means determines that said user has activated said predetermined push button or buttons (i.e., keywords can be entered via a push button or speech recognition unit, and information or words (corresponding to template) entered by the user are added to the memory of the radio receiver, user can enter "traffic" as a template in the memory, he can add "weather" a template in the memory, then he can add sports or any king word associated news, song and so on, col. 2, line 66 to col. 4, line 27).

Van Ryzin does not specifically teach generating templates from audio signal.

However, the preceding limitation is known in the art of communications. Ravi teaches a generated flag is broadcasted to radio receiver for announcing radio receiver having a monitoring device to detect and compare the flag with information stored in the memory for selection of radio stations (col. 2, line 53 to col. 3, line 67). Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to implement the technique of Ravi within the system of Van Ryzin in order that the

radio receiver directly receives the flag (template) from the service provider, thus reducing the load of radio receiver processor.

Regarding claim 30, Van Ryzin in view of Ravi teaches all the limitations above. Van Ryzin further teaches said means for producing an audio signal is a tuner (10) that receives a signal transmitted from a radio station and produces said audio signal from said signal (col. 1, lines 55-67).

Regarding claim 31, Van Ryzin in view of Ravi teaches all the limitations above. Van Ryzin further teaches said means for producing an audio signal is a compact disc player (CD 14 of fig. 1)

Regarding claims 32 and 34, Van Ryzin teaches producing an audio signal (i.e., function of tuner or CD of fig. 1); determining whether a user of the system has indicated a dislike of the content associated with said audio signal (i.e., user decides what type of report or information he/she want to hear, col. 3, line 65 to col. 4, line 5); and adding said template to the set of templates if said determining means determines that said user has indicated a dislike of the content associated with said audio signal (user decides what type of report or information he/she want to hear, col. 3, line 65 to col. 4, line 5), and keywords can be entered via a push button or speech recognition unit, and information or words (corresponding to template) entered by the user are added to the memory of the radio receiver, user can enter "traffic" as a template in the memory, he can add "weather" a template in the memory, then he can add sports or any king word associated news, song and so on, col. 2, line 66 to col. 4, line 27).

Van Ryzin does not specifically teach generating templates from audio signal.

However, the preceding limitation is known in the art of communications. Ravi teaches a generated flag is broadcasted to radio receiver for announcing radio receiver having a monitoring device to detect and compare the flag with information stored in the memory for selection of radio stations (col. 2, line 53 to col. 3, line 67). Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to implement the technique of Ravi within the system of Van Ryzin in order that the radio receiver directly receives the flag (template) from the service provider, thus reducing the load of radio receiver processor.

Regarding claims 33 and 35, Van Ryzin in view of Ravi teaches all the limitations above. Van Ryzin further teaches determining whether a user of the system has indicated a dislike of the content associated with said audio signal comprises the step of determining whether a user of the system has activated a predetermined push button or buttons provided on the at least one control panel (i.e., user decides what type of report or information he/she want to hear, col. 3, line 65 to col. 4, line 5).

6. Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ravi in view of Mimick et al. (US 5,594,601).

Regarding claim 27, Ravi teaches all the limitations above except programming a CD player wherein the CD player is caused to automatically skip to a next song.

However, the preceding limitation is known in the art of communications. Mimick teaches a method that allows a user to program or edit, via keystrokes, a program or sequence of tracks to be played (abstr.). Therefore, it would have been obvious to one

of ordinary skill in the art, at the time of the invention, to implement the technique of Mimick within the system of Ravi in order to allow a user to program the communication device, and play only the desired track.

### ***Response to Arguments***

7. Applicant's arguments with respect to claims 26-35 have been considered but are moot in view of the new ground(s) of rejection. The same arts have been used but the Examiner interprets the claims differently and modifies the rejections. (See rejections above).

The Double patenting rejection is maintained as recited in the previous Office Action.

### ***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Scott et al.	US 4,383,135	05/10/1983
Begeja et al.	US 5,757,939	05/26/1998
Pocock	US 6,314,577	11/06/2001
Kunii	US 5,654,719	08/05/1997

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to JEAN A. GELIN whose telephone number is (571)272-7842. The examiner can normally be reached on 9:30 AM to 7:00 PM.



If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dwayne Bost can be reached on (571) 272-7023. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JGelin  
May 7, 2008  
/Jean A Gelin/  
Primary Examiner, Art Unit 2617